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## LABOUR & EMPLOYMENT DEPARTMENT

### NOTIFICATION

The 3rd January 2007

No. 51—li/1(B)-333/1992-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 15th December 2008 in I. D. Case No. 52 of 2008 of the Presiding Officer, Industrial Tribunal, Bhubaneswar to whom the industrial dispute between the Management of M/s. Lords Food Products (India) Pvt. Ltd., Bhubaneswar and their Workmen represented through Lords Food Workers Union, Bhubaneswar was referred for adjudication is hereby published as in the Schedule below :

### SCHEDULE

IN THE COURT OF PRESIDING OFFICER  
INDUSTRIAL TRIBUNAL, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 52 OF 2008

Dated the 15th December 2008

#### *Present :*

Shri P. C. Mishra, O.S.J.S. (Sr. Branch),  
Presiding Officer, Industrial Tribunal,  
Bhubaneswar.

#### *Between :*

The Managing Director,  
Lords Food Products (India) Pvt., Ltd.,  
6/A, Mancheswar Industrial Estate,  
At/Post Mancheswar, Bhubaneswar,  
Dist. Khurda.

.. First Party—Management

And

The President/General Secretary,  
Lords Food Workers Union,  
AITUC State Office, Qr. No. VI-R/8,  
Bhubaneswar.

.. Second Party—Workman

*Appearances :*

None	.. For the First Party— Management
Shri Nanda Kishore Baral	.. The Second Party— Workman himself

## AWARD

Originally, the Government of Orissa in the Labour & Employment Department had referred the following dispute for adjudication by the Presiding Officer, Labour Court, Bhubaneswar vide its Order No. 14045—li/1 (B)-333/1992-L.E., dated the 2nd November 1994 but subsequently it transferred the dispute to be adjudicated by the Presiding Officer, Industrial Tribunal, Bhubaneswar vide its order No. 4138—li-21-32/2007-L.E., dated the 4th April 2008.

“ Whether the termination of services Shri Nanda Kishore Baral and Shri Amar Bhoi, Packers with effect from the 1st October 1992 by the Management of Lords Food Products (India) Pvt. Ltd., Bhubaneswar is legal and/or justified ? If not, to what relief both the workmen are entitled ? ”

2. The case of the second party workmen in short is that both of them were working under first party management since 1989 as Packer and while continuing so they suffered termination of their services with effect from the 1st October 1992. It is alleged that on account of their forming a Union to ventilate their grievance in a legitimate way, the management became vindictive and with a view to curb their Union activities adopted unfair labour practice by terminating their services on the plea that such termination was retrenchment due to financial crisis of the management. It is further alleged that after retrenching the workmen the management has recruited new persons to run its factory and so also allowed junior persons to the workmen to continue in the establishment. Since after the date of their termination the workmen have not been gainfully employed elsewhere and are maintaining their family by incurring heavy loans, they have prayed for their reinstatement in service with back wages and other consequential service benefits.

3. The management although appeared and filed its written statement but during hearing of the dispute it did not participate and accordingly it was set *ex parte* vide Order No. 19 dated the 19 November 1997. In the *ex parte* hearing, out of the two workmen, one workman namely, Nanda Kishore Baral examined himself and proved his E.S.I. Card which has been marked as Ext.1. The other workman, namely, Amar Bhoi did not appear nor adduced any evidence for which evidence from the side of the workmen was closed vide order dated the 11th December 2008.

4. In his unchallenged evidence W. W. No.1, Shri Nanda Kishore Baral, has stated that prior to his termination of service i.e. 1st October 1992 he was working with the management as a Packer for about seven years. He deposed that as he was an active member of the Union the management out of grudge terminated his service without serving any prior notice or notice pay and retrenchment compensation. In view of the illegal action of the management, he has prayed for his reinstatement in service with full back wages. Ext .1 is the xerox copy of

E.S.I. Card issued in favour of the workman which discloses that the workman was issued with an identity card by the E.S.I. Corporation. As regards the other workman Shri Amar Bhoi, no evidence is available which would substantiate his claim.

5. Considering the evidence of W.W. No.1, which has been adduced on oath, it is held that the termination of service of Shri Nanda Kishore Baral, W.W. No.1 was not effected as per the norms stipulated under the Industrial Disputes Act and for any justified cause. Hence it is held that Shri Baral is entitled to only reinstatement in service but not back wages as he has not uttered a single word that during the period of termination of service he was not gainfully employed elsewhere. In absence of any evidence on record, no order could be passed as to the legality or otherwise of the action of the management taken against the other workman, namely, Shri Amar Bhoi.

The reference is answered accordingly.

Dictated and corrected by me.

P. C. MISHRA  
15-12-2008  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

P. C. MISHRA  
15-12-2008  
Presiding Officer  
Industrial Tribunal  
Bhubaneswar

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By order of the Governor  
K. C. BASKE  
Under-Secretary to Government